

State Human Rights Committee  
2002 Annual Report  
On the Status of the DMHMRSAS Human  
Rights System

Presented to the State Mental Health, Mental Retardation and Substance Abuse Board  
Richmond, Virginia  
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## **MESSAGE FROM THE SHRC CHAIR and THE DIRECTOR OF HUMAN RIGHTS**

The year 2002 presented many challenges for the Office of Human Rights (OHR), the State Human Rights Committee (SHRC) and the human rights system. The major focus of the year was the implementation of and the training on the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* (hereinafter the regulations).

The regulations went into effect on November 21, 2001. Training began immediately and continued through the spring of 2002. Over 2000 individuals attended multiple training sessions throughout the state. The Office of Human Rights utilized the Department of Mental Health, Mental Retardation and Substance Abuse Services' (hereinafter DMHMRSAS or the Department) web site at [www.dmhmrzas.state.va.us](http://www.dmhmrzas.state.va.us) for the posting of resources to assist consumers and providers in understanding and implementing the new regulations. These resources include training tapes, power point slides, guidebooks, frequently asked questions (FAQ), sample test questions, seclusion and restraint crosswalk and a monitoring matrix.

The human rights system continues to expand. With the addition of the private psychiatric hospitals, the conversion of Assisted Living Facilities (ALFs), and other new providers, the number of local committees has increased to an all time high of 65. The SHRC intends to look closely at the structure and operation of the system to ensure committees are functioning in the most efficient and effective manner. To that end, the SHRC instructed the OHR to convene a meeting of constituents to make recommendations regarding how to maximize the effectiveness and efficiency of the local committees. We look forward to their report in mid year.

The SHRC was faced with an extremely difficult and unfortunate situation during the past year. For the first time in the history of the SHRC, a complaint was made regarding the actions of a local committee member. Upon review of the matter, the SHRC removed the individual in question from membership on the local committee for breaching the confidentiality of a consumer. This SHRC action caused serious repercussions for the local committee and the remaining committee members. The SHRC and the OHR provided training to the committee and monitored its meetings. Eventually, a majority of the committee resigned leaving the provider without an appropriate affiliation. The provider immediately sought for and was granted a temporary affiliation with another local committee and is pursuing the establishment of a new regional psychiatric hospital local committee. Despite these repercussions, the SHRC believes it must hold all local committees and committee members to the standards set forth in the human rights regulations. Committee members are models for the system and must meet the highest standards.

Our sincere thanks to the human rights staff and the many volunteers who serve on local human rights committees and to the members of the State Human Rights Committee for their tremendous efforts in support of the human rights program.

We take pride in the accomplishments of the past year, and look forward to the future, feeling confident that with dedicated staff, committed volunteers and the support of the Department and the State Mental Health, Mental Retardation and Substance Services Board, we can succeed in making this program the best possible.

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Peter McIntosh, Chair  
State Human Rights Committee

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Margaret Walsh, Director  
Office of Human Rights

## **OVERVIEW**

The Department's Office of Human Rights, established in 1978, has as its basis the ***Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services***. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated funded and licensed by DMHMRSAS.

Title 37.1-84.1, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.1-84.1 and the right to access legal counsel; and
- Be afforded the appropriate opportunities... to participate in the development and implementation of his individualized service plan.

The State Human Rights Committee's function is to ensure the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the ***Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*** promulgated pursuant to §37.1-84.1 of the Code of Virginia, as amended.

### **The State Human Rights Committee (SHRC):**

- ◆ The SHRC consists of nine members appointed by the State Mental Health, Mental Retardation and Substance Abuse Services Board (hereinafter the Board).
  - a. Members shall be broadly representative of professional and consumer interests and of geographic areas in the Commonwealth. At least two members shall be individuals who are receiving services or have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse

treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.

- b. No member can be an employee or Board member of the Department or a Community Services Board.
  - c. All appointments after November 21, 2001 shall be for a term of three years.
  - d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
  - e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.
- ◆ Elect a chair from its own members who shall:
    - a. Coordinate the activities of the SHRC;
    - b. Preside at regular meetings, hearings and appeals; and
    - c. Have direct access to the Commissioner and the Board in carrying out these duties.
  - ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.
  - ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
  - ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
  - ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
  - ◆ Conduct at least eight regular meetings per year.
  - ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.
  - ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder.
  - ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates, or LHRCs and assure the availability of the opinion or report to providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.

- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.
- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.
- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

## **MISSION STATEMENT**

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.1-84.1 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DMHMRSAS Human Rights dispute resolution program.

## **STRUCTURE**

The Office of Human Rights is located within the Department of Mental Health, Mental Retardation and Substance Abuse Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Appointed by the State Board, the SHRC acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations, review and approve LHRC bylaws, and appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations; and review restrictive programming.

**Advocates** represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned, with regional advocates located throughout the State who provide a similar function for consumers in community programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.



## **STATE HUMAN RIGHTS COMMITTEE MEMBERS**

### **Peter McIntosh Chair**

Mr. McIntosh is an Associate with the law firm of Michie, Hamlett, Lowry, Rasmussen, and Tweel. He was appointed on July 1, 1997. Mr. McIntosh is a former member and Chair of the Region Ten Community Services Board Local Human Rights Committee and former Vice Chair of the SHRC. Mr. McIntosh resides in Charlottesville, Virginia.

### **James Briggs Vice Chair**

James Briggs is the former Manager of the Client Rights Program for the Virginia Department of Corrections (DOC). He was appointed on July 1, 1998. Mr. Briggs is a former member and Chair of Central State Hospital's Local Human Rights Committee. He has been a counselor and has 20 years experience working for the rights of individuals in DOC facilities. Mr. Briggs resides in Chester.

### **Joyce Bozeman**

Joyce Bozeman, Ph.D. Dr. Bozeman was appointed on July 1, 2001. She has administrative and teaching experience in Higher Education, State Government and Non-Profit Organizations. She was Senior Policy Advisor to the President of Virginia State University and was responsible for University policies and procedures. Dr. Bozeman worked for DMHMRSAS as Executive Assistant to the DMHMRSAS Commissioner from 1987 to 1991. Dr. Bozeman resides in Chesapeake.

### **Carol Gittman**

Ms. Gittman retired from Fort Lee where she served as Supervisory Management Analyst. She was appointed on July 1, 1997. She is a former member of the Central State Hospital LHRC. Ms. Gittman is a mental health consumer and parent of a consumer, and she has participated in a Bipolar Disorder study conducted by the Psychiatric Institute of New York at Columbia University. Ms. Gittman resides in Dinwiddie County, Virginia.

### **Linda Martin**

Ms. Linda Martin, RN. Ms. Martin was appointed on July 1, 2001. She is a former member and Chair of the Piedmont Geriatric Hospital LHRC. She was Director of an area agency on aging, and has spent her career as a registered nurse in the field of College Health. She has certification from the American Nursing Credentialing Center in College Health, a certificate in basic mediation from the Dispute Resolution Center, and certification as an alcohol education instructor from Prevention Research Institute. Ms. Martin has presented several programs at national, regional, and local conferences and has served on and Chaired several state and college committees and task forces. She resides in Hampden-Sydney.

### **Dr. Michael Marsh**

R. Michael Marsh, MSW, Ph.D. Social Worker, retired. Dr. Marsh was appointed on July 1, 2001. He has served on the Blue Ridge CSB (now known as the Blue Ridge Behavioral Healthcare) LHRC, and provided outstanding leadership and direction to the LHRC as Chair. Dr. Marsh retired as Facility Director of Catawba Hospital for the DMHMRSAS in 1995 having served in that capacity for 17 years. Prior to employment with DMHMRSAS he was a Medical Service Corps officer serving in a variety of positions in the Army that included working as a clinical social work officer and as a general staff officer in the Headquarters Department of the Army and in the Office of the Secretary of Defense. Dr. Marsh resides in Salem.

### **Dr. Angela Brosnan**

Dr. Angela S. Brosnan, Psychiatrist. Dr. Brosnan was appointed on March 15, 2002. Dr. Brosnan was staff Psychiatrist, and Medical Director of the substance abuse program at the Mental Health Clinic of McGuire Veterans Administration Hospital in Richmond. She also served as Consultant on Psychiatry for Child Neurology at the Bureau of Crippled Children in Richmond, Chairman of the Physician's Consulting Group at St. Mary's Hospital in Richmond, and President of the Richmond Psychiatric Society. Dr. Brosnan is in private practice for both inpatient and outpatient psychiatry and is a member of the Medical Malpractice Advisory Panel to the Supreme Court of Virginia. Dr. Brosnan resides in Richmond.

### **Ms. Carmen Anne Thompson**

Mrs. Carmen Anne Thompson was appointed on June 28. Ms. Thompson served two consecutive terms on the Catawba Hospital Local Human Rights Committee (LHRC), during which time she consistently demonstrated her personal commitment to the protection of human rights. She was an outstanding member of the LHRC and served as Chair during her second term. She is a mental health consumer and has family receiving substance abuse services. Ms. Thompson has a background in education and motivational speaking. Ms. Thompson resides in Moneta.

### **Ms. Davey Zellmer**

Ms. Doris "Davey" Zellmer was appointed on June 28. At the time of her appointment she was serving as Chair of the Northern Virginia Training Center LHRC. Ms. Zellmer is a retired Registered Nurse and an ANA Certified Psychiatric Nurse. She served as Director of the Rehabilitation Services Unit, Director of the Community Care Unit, and Director of the Social Center for Psychiatric Rehabilitation at the Mount Vernon Center for Community Mental Health in southern Fairfax County. Ms. Zellmer has a son who is receiving services in the community. Ms. Zellmer resides in Fredericksburg.

## **OFFICER APPOINTMENTS/MEMBERSHIP CHANGES**

Effective July 1, 2002

Peter McIntosh, Chair  
James Briggs, Vice Chair

### Terms Expired in 2002:

James Harper, Counselor, Woods Program  
Loretta Redelman, Retired Dental Hygienist

### New Appointments in 2002

Dr. Angela Brosnan was appointed to the SHRC by the State Board on March 15, 2002. Davey Zellmar and Carmen Anne Thompson were appointed by the Board effective July 1, 2002.

## **STATE HUMAN RIGHTS COMMITTEE ACTIVITIES**

- **LHRC Bylaws**

LHRC Bylaws and Bylaw revisions were approved for the following 5 LHRCs.

Holiday House of Portsmouth LHRC  
Northern Virginia Training Center LHRC  
Hampton/Newport News CSB LHRC  
Southeastern Virginia Training Center LHRC  
Middle Peninsula/Northern Neck LHRC

- **Variances**

Variances were approved for the following provider.

Pines Residential Treatment Center  
Genesis Treatment Center  
Blue Ridge Behavioral HealthCare (withdrawn)  
Shenandoah Recovery Center  
Hegira House  
Highlands Community Services  
Central State Hospital  
Barry Robinson Center  
Woodside Hospital LLC  
Virginia Beach Psychiatric Center

- **Restrictive Plans**

A Restrictive Behavioral Plan was approved for the following:

Eastern State Hospital

- **Meetings**

In 2002 the State Human Rights Committee held the following meetings:

January 25	Central Office Richmond, Virginia
March 8	Richmond Behavioral Health Authority Richmond, Virginia
April 19	Northern Virginia Training Center Fairfax, Virginia

May 31,	Blue Ridge Behavioral HealthCare Roanoke, Virginia
July 12	Central Virginia Training Center Madison Heights, Virginia
September 6	Western State Hospital Staunton, Virginia
October 18	Hilton Garden Inn Williamsburg, Virginia
December 6	Central Office (cancelled due to snow) Richmond, Virginia

Meeting at various facilities and programs throughout the state provides the Committee with first hand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided. However, meetings are frequently held at other locations to accommodate hearings or when the agenda dictates the need to schedule meetings in the Central Office.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. Two (2) cases were brought before the State Human Rights Committee on appeal in 2002. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state. Issues addressed in decisions rendered by the SHRC this past year included:

- \* right to protection from harm, abuse and exploitation
- \* right to confidentiality
- \* right to treatment with dignity
- \* right to informed consent
- \* right to participation in decision-making

- **Other Activities**

A central function of the SHRC is to identify human rights issues throughout the service delivery system and make recommendations to the appropriate entities. This past year the SHRC made recommendations regarding the use of surveillance cameras, and the use of removal and/or time-out. The SHRC, with guidance from the Office of the Attorney General, continued to clarify for itself and the LHRCs, how the Freedom of Information Act affects LHRC/SHRC hearings.

The SHRC takes its duty to provide oversight to local human rights committees very seriously. During 2002 several issues arose that required the committee to further clarify this authority. In early 2002 a member of a local committee was reported to have breached the confidentiality of an

individual receiving services. The SHRC suspended the local committee member pending the completion of a fact-finding into the allegation. Upon review of the case the SHRC voted to rescind the committee member's appointment due to the breach of confidentiality.

The SHRC also intervened personally with a local committee that was having difficulty completing its duties under the regulations. An SHRC subcommittee was appointed to provide training to the local committee in an attempt to resolve the difficulties. Unfortunately, this was not successful and several members of the local committee resigned shortly thereafter.

The SHRC heard of problems within the local committee system from a variety of sources throughout the year. These problems included relationships with CSBs, management of committee functions, geographic boundaries, roles of parties and understanding the regulations. To better understand the issues, the SHRC directed the Office of Human Rights to convene a task force composed of a wide range of constituents. The task force was charged with the responsibility of making recommendations to the SHRC regarding improving the effectiveness and efficiency of the Local Human Rights Committees. This LHRC Study Group will complete its work by June 6, 2003 and present a report with recommendations to the SHRC at that time.

In regard to the oversight of the LHRCs, the SHRC addressed the following issues:

- ◆ Affiliation Agreements
- ◆ Appropriate number and geographical location of LHRCs pursuant to the new human rights regulations
- ◆ Training
- ◆ LHRC/CSB relationship
- ◆ Conflict of interest
- ◆ Removal of LHRC member for cause
- ◆ Recruitment of members

Several substance abuse providers appeared before the SHRC during 2002 with requests for variances to the human rights regulations. The Office of Substance Abuse Services (OSAS) provided the SHRC with information about the current standards of professional care and treatment within SA programs. The SHRC is using the guidance from the OSAS to evaluate the variance requests from such programs.

The SHRC continues with the practice of alternating between administrative meetings and advocate forums from 8:00 a.m. to 10:00 a.m. prior to the start of the formal SHRC meetings. Administrative meetings are used to discuss ways of improving the conduction of business during the formal portion of the meetings and to discuss points of interest and concern regarding the human rights program. Advocate forums give the advocates and SHRC members the opportunity to discuss systemic issues. The increased understanding of systemic issues and time for administrative activities has enabled the SHRC to better serve and protect consumers.

## **OFFICE OF HUMAN RIGHTS PROGRAM HIGHLIGHTS**

### **STAFFING**

The Office of Human Rights experienced several changes in staff this year. Two new advocates were hired, two staff retired, and two staff were lost due to budget driven layoffs. Jennifer Bailey and Barry Lee were hired as advocates at CSH and ESH respectively. Violet Hite, advocate at CSH, and Joyce January, Secretary, NVTC Regional Office, retired. Musa Ansari, Assistant Director, and Sharon Hagy, Secretary, SWVMHI Regional Office, were separated during the fall budget crisis. The Office of Human Rights Directory/Roster and OHR Regions can be found in **Appendix I**.

In collaboration with the Department of Social Service (DSS), the OHR established two new “units” in order to access Federal Title 4E funds. These “CORE” Units, consist of staff that work exclusively with children’s residential programs. These programs are eligible for Title 4E (Child Welfare) funds, which means our actions toward monitoring compliance can generate revenue. Other OHR staff who provide services to children’s residential programs, and are not part of the CORE Units, submit a time sheet for submission to DSS for reimbursement. The establishment of these programs enabled the OHR to maintain staffing that would have otherwise been lost due to budget reductions.

The OHR has increased the cross training of all advocates. All advocates are able to provide services to both community and state facility programs. This strengthens both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

### **IMPLEMENTATION OF THE RULES AND REGULATIONS TO ASSURE THE RIGHTS OF INDIVIDUALS RECEIVING SERVICES FROM PROVIDERS OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES**

1. The new BLUE BOOK became available in 2002. It is larger and the cover is a darker blue than the previous Blue Books. Response to the new publication has been favorable.
2. Training events on the new regulations began before the regulations became effective on November 21, 2001 and continued into 2002. Training activities in 2002 included the following:
  - ◆ Five human rights trainings were held in collaboration with the Institute of Law, Psychiatry and Public Policy (ILPPP). Over 800 individuals attended the training which was open to consumers, family members, LHRC/SHRC members, providers, professionals, advocacy groups and other interested parties. The dates and locations were as follows:

April 29 <sup>th</sup>	WSH
May 15 <sup>th</sup>	Comfort Inn, Richmond
May 24 <sup>th</sup>	Fairfax Government Center
June 6 <sup>th</sup>	Omni Hotel, Newport News

- ◆ Since the completion of the formal training, OHR staff have provided training to consumers, family members and providers in a variety of ways and in a variety of venues. OHR staff have provided training to consumers, family members or providers at the following locations:
  - Club Houses
  - Psychiatric Hospitals
  - Professional Organizations
  - Parent Organizations
  - Group homes
  - Residential Treatment Centers
  - Training Centers
  - Psychosocial Rehabilitation Programs
  - Community Organizations
  - Substance Abuse Programs
  - Conferences/Meetings
  - Community Services Boards
  - Preadmission Screening Evaluator Certification (video tape)
- 3. To assist with the implementation of the new regulations several types of resources have been developed including a videotape and workbook that providers may use for training staff. The following information is available on the Office of Human Rights web page. The address for the web site is [www.dmhmrzas.state.va.us/enter/office/human rights](http://www.dmhmrzas.state.va.us/enter/office/human%20rights).
  - ◆ Frequently Asked Questions (FAQ)
  - ◆ “Notice of Rights” in five different languages
  - ◆ Human rights training information including video tapes, power point slide presentations and workbook
  - ◆ Sample Test Questions
  - ◆ Implementation Monitoring Schedule
  - ◆ Seclusion and Restraint Crosswalk
  - ◆ ECT Checklist
  - ◆ Human Rights Compliance Review Form
- 4. Individuals can also access general information about the human rights program on the web site. This information includes:
  - ◆ Notice of SHRC meetings
  - ◆ Notice of Variance requests
  - ◆ LHRC affiliations and meeting schedules
  - ◆ Relevant legislative information
  - ◆ OHR Directory
  - ◆ SHRC Annual Reports
- 5. As part of the implementation of the regulations the OHR developed the new Office of Human Rights LHRC/SHRC Handbook. The handbook was distributed to all local and state committee members. The handbook is a guide to understanding the regulations and their duties.



## **OFFICE OF LICENSING / OFFICE OF HUMAN RIGHTS**

This past year saw a continuation of the cooperation and collaboration between the OHR and the Office of Licensing. These efforts were prompted by § 37.1-84.1 (A) 10, § 37.1-179 and § 37.1-185.1 of the **Code of Virginia**. These sections of the code require providers to be in compliance with the human rights regulations in order to become licensed by the Department and require each provider to undergo periodic human rights reviews. The code also establishes human rights enforcement and sanctions, which provides consequences for providers for failure to comply with human rights regulations. A model for monitoring initial compliance was developed and efforts continue to explore models for monitoring ongoing compliance. The goal is to adopt a model that will increase the validity of the monitoring activities and maximize the utility of staff resources.

The OHR and OL also developed a protocol to clarify the relationship between the OL and the OHR in the area of abuse and neglect investigations. The protocol establishes a model for investigations which is consistent and, most importantly, provides the maximum protection for consumers. The protocol has improved the quality of investigations for both offices.

Another activity that required close cooperation of the offices was the conversion of several Assisted Living Facilities (ALF) from Department of Social Services' licensure to DMHMRSAS licensure. This conversion required that these providers adhere not only to the licensing regulations but to the human rights regulations as well.

New licensing regulations went into effect in 2002. The Office of Human Rights was involved in the development of *the Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services*

### **CHRIS** (Computerized Human Rights Information System)

The CHRIS system continues to operate successfully in the state facilities. The use of the CHRIS system by the CSBs is no longer required. However, all community programs are reporting abuse and neglect allegations and human rights complaints as required.

CHRIS will be updated by April 14, 2003 in order to maintain and track privacy complaints in accordance with HIPAA.

## **TRAINING AND STAFF DEVELOPMENT**

Quarterly Advocate meetings were held at Western State Hospital April 22 and September 5. The training was geared toward enhancing staff ability to effectively advocate for their consumers, and the implementation of the regulations. These meetings also served to keep staff informed of relevant policy and legislative changes. Guest presenters and staff of the Office of Human Rights provided the training. OHR staff also participated in the five training sessions on the new regulations held prior to June.

## **ABUSE RELATED INITIATIVES**

Office of Human Rights staff have been involved in several initiatives relative to abuse and neglect. The OHR and SHRC have been involved in providing comments regarding the ongoing revisions to Departmental Instruction 201 which governs the abuse/neglect process within state facilities. OHR staff have served on committees and provided comment on the improvement of this system.

OHR staff participated in the Department's efforts to develop a new system of aggressive behavior intervention. These efforts will result in the use of a new program that will enhance the treatment and safety of consumers and staff.

OHR staff have also been involved in efforts to reduce the use of seclusion and restraint in state facilities. OHR staff will continue to work with facility staff toward this goal.

## **OLMSTEAD TASK FORCE**

With the support of Governor Warner, the Olmstead Task Force was created by the General Assembly in the 2002 Appropriation Act. It is chaired by Health and Human Resources Secretary, Jane H. Woods, and coordinated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The Task Force brings together individuals from all walks of life who are interested in assuring that Virginians with all types of physical, mental, or sensory disabilities have an opportunity to live in the community. Its 65 members include consumers, family members, advocates, providers, and 15 state agencies having responsibility for providing services to individuals with disabilities in the Commonwealth.

The Office of Human Rights has participated in several Olmstead Task Force related activities. In addition to assisting with the early planning of the Task Force, the OHR publicized the meetings to consumers and family members, participated on an Issue Team, and drafted an Olmstead related grant application. The OHR will continue to assist with the work of this important body during 2003.

## **HEALTHCARE INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

The Privacy Rule or HIPAA becomes effective on April 14, 2003. During the past year, the OHR has worked closely with Department and Office of Attorney General staff to develop policy and procedures to implement this law. Of critical importance is the relationship between HIPAA and the human rights regulations. Due to the complexity of the interplay between HIPAA and state law, providers may have an increased administrative burden. The human rights system, including advocates and local and state committee members, will experience the impact of HIPAA.

## **COMMISSIONER'S AWARD OF EXCELLENCE**

On September 6, 2002, staff of the Office of Human Rights were awarded the Commissioner's Award of Excellence for the Implementation of the *Rules and Regulations to Assure the Rights of*

*Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.* This was an important recognition for the hard working staff of the Office of Human Rights.

### **PROJECTED ACTIVITIES FOR 2003**

The primary goal for the Office of Human Rights for the year 2003 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this goal. Major projected activities for the Office of Human Rights for the year 2003 are as follows:

- A. Provide training for consumers, providers and professionals on the regulations.
- B. Provide clarification regarding the interplay between HIPAA and the human rights regulations.
- C. Implement changes in the human rights system required by HIPAA.
- D. Promote and assist with the completion of the activities of the Olmstead Taskforce.
- E. Continue to clarify, support and reinforce the change in roles for advocates, LHRC and SHRC members.
- F. Promote consistency and accurate documentation of monitoring activities.
- G. Coordinate monitoring community program compliance with the Office of Licensing.
- H. Assist the SHRC with the management of the LHRC affiliation process.
- I. Assist the LHRC Study Group with the completion of its report to the SHRC.
- J. Develop resources to assist consumers and providers as needed.
- K. Identify options to improve the system and availability of alternative decision-makers.
- L. Increase accountability and consistency in the provision of all advocacy services.

### **LOCAL HUMAN RIGHTS COMMITTEES**

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. A listing of all 65 LHRCs and their program affiliates can be found in **Appendix II**.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing Bylaws;
- reviewing Variance requests;
- conducting Fact-Finding Conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

## **ADVOCATES ACTIVITIES**

During the year, the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

- Assisting consumers in presenting and resolving complaints;
- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
- Monitoring the implementation and compliance with the new regulations;
- Assisting in developing, reviewing and amending human rights policies and procedures for the approximately 450 providers in the state;
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation to consumers, program staff, LHRCs, advocacy and community groups on the human rights program.
- In addition to the above, the regional advocates provide advocacy services to community services boards and licensed programs in their assigned service areas. They also provide supervision to the facility advocates in that area.

### **SHRC Recommendations for 2003**

- ◆ The SHRC recommends that DMHMRSAS explore ways of conforming the human rights regulations to the provision of HIPAA without compromising human rights.
- ◆ The SHRC recommends that DMHMRSAS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.
- ◆ The SHRC will pursue ways of increasing the effectiveness and efficiency of the LHRC system.
- ◆ The SHRC will increase its attention to monitoring the human rights system.
- ◆ The SHRC recommends that DMHMRSAS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.
- ◆ The SHRC recommends that DMHMRSAS increase the number of Human Rights Advocates in accordance with the recommendations in House Document No. 21; “Evaluating the Human Rights Advocates in State Facilities and Community Programs.”

## **SUMMARY OF COMMUNITY PROGRAM ABUSE /NEGLECT and COMPLAINT ALLEGATIONS**

The following graph reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2000, 2001 and 2002. This information is reported to the Regional Advocates from the Community Service Boards (CSB) and private providers.

- There were 785 human rights complaints as reported to Regional Advocates in 2002. This is down from 840 in 2001.
- There were 1094 allegations of abuse and/or neglect as reported to Regional Advocates in 2002, which is up from the 899 allegations in 2001.
- There were 215 substantiated cases of abuse and or neglect as reported to Regional Advocates in 2002, which is more than the 162 and 145 substantiated cases in 2000 and 2001.

### **2000/2001/2002 Community Programs**

	<b>Abuse Allegations</b>	<b>Abuse cases Substantiated</b>	<b>Percent Substantiated</b>	<b>Human Rights Complaints</b>
<b>2000</b>	<b>1029</b>	<b>153</b>	<b>14%</b>	<b>823</b>
<b>2001</b>	<b>899</b>	<b>162</b>	<b>18%</b>	<b>840</b>
<b>2002</b>	<b>1094</b>	<b>215</b>	<b>19%</b>	<b>785</b>

## **SUMMARY OF STATE FACILITY**

### **HUMAN RIGHTS COMPLAINTS and ABUSE/NEGELCT ALLEGATIONS**

(Data source is CHRIS)

- There were 1061 complaints received from consumers in facilities in 2002. This is down 39% from the 1740 complaints in 2001. The decrease is directly attributed to the Informal Complaint process outlined in the human rights regulations.
- 99% of the facility complaints were resolved at the Directors level or below. Four human rights complaints of consumers in a state facility were heard on appeal at the LHRC level and one complaint was heard on appeal at the SHRC level.
- There were 686 allegations of abuse/neglect in the state facilities. This is down 13% from 2001.
- 49 facility employees were terminated for abuse or neglect in 2002.
- 20 facility employees resigned as a result of receiving an allegation of abuse or neglect.
- 16% of facility abuse/neglect allegations were substantiated in 2002. That is up from 12% in 2001.

### **State Facility** **Abuse/Neglect Data**

#### **#Allegations/ #Substantiated**

	<b>2000</b>		<b>2001</b>		<b>2002</b>	
Catawba	46/1	(2%)	33/0	(0%)	16/0	(0%)
Central State	122/11	(9%)	223/29	(13%)	172/28	(16%)
CVTC	28/4	(14%)	68/14	(20%)	73/13	(17%)
CCAA	22/2	(9%)	25/1	(4%)	12/0	(0%)
Eastern State	148/20	(13%)	101/23	(22%)	71/12	(16%)
Hiram Davis	5/0	(0%)	12/0	(0%)	10/4	(40%)
NVMHI	4/0	(0%)	41/0	(0%)	65/4	(6%)
NVTC	13/3	(23%)	11/3	(27%)	16/7	(43%)
Piedmont	5/0	(0%)	18/4	(22%)	17/4	(23%)
SEVTC	36/2	(5%)	52/5	(9%)	47/13	(27%)
SVMHI	12/2	(16%)	12/0	(0%)	4/0	(0%)
SVTC	33/5	(15%)	34/9	(26%)	39/12	(30%)
SWVMHI	46/1	(2%)	30/0	(0%)	40/3	(7%)
SWVTC	32/2	(6%)	63/2	(3%)	71/6	(8%)
Western State	45/3	(6%)	62/5	(9%)	33/5	(15%)
<b>Totals</b>	<b>596/56</b>	<b>(9.4%)</b>	<b>785/95</b>	<b>(12%)</b>	<b>686/112</b>	<b>(16%)</b>

**State Facility**  
**Human Rights Complaints**

	<b>2000</b>	<b>2001</b>	<b>2002</b>
Catawba	242	210	122
Central State	202	60	109
CVTC	244	176	191
CCAA	47	69	34
Eastern State	253	203	53
Hiram Davis	1	2	1
NVMHI	54	251	99
NVTC	41	17	4
Piedmont	137	106	69
SEVTC	16	9	5
SVMHI	49	32	24
SVTC	13	9	12
SWVMHI	201	183	80
SWVTC	16	22	19
Western State	343	391	239
<b>Totals</b>	<b>1863</b>	<b>1740</b>	<b>1061</b>



# APPENDIX

## I

OFFICE OF HUMAN RIGHTS ROSTER  
OFFICE OF HUMAN RIGHTS REGIONS

# **APPENDIX**

## **II**

### **LOCAL HUMAN RIGHTS COMMITTEES AND AFFILIATIONS**

